

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

RESOLUTION NO. R5-2003-0106

APPROVING  
A WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
SMALL FOOD PROCESSORS, INCLUDING WINERIES,  
WITHIN THE CENTRAL VALLEY REGION

Whereas, the California Regional Water Quality Control Board, Central Valley Region (hereafter Regional Board), finds that:

1. California Water Code (CWC) Section 13260(a) requires that any person discharging waste or proposing to discharge waste within any region that could affect the quality of the waters of the State, other than into a community sewer system, shall file with the appropriate regional board a report of waste discharge (RWD) containing such information and data as may be required by the Regional Board.
2. The Regional Board has a statutory obligation, pursuant to CWC Section 13263, to prescribe waste discharge requirements (WDRs) for each discharge of waste, except where the Regional Board finds that a waiver of WDRs for a specific type of discharge is not against the public interest as described in CWC Section 13269.
3. CWC Section 13269 authorizes the Regional Board to waive WDRs for specific types of discharge where such a waiver is not against the public interest, is conditional, and may be terminated by the Regional Board at any time.
4. CWC Section 13269 provides, in part, that waivers of WDRs which were in existence prior to 1 January 2003 expired on that date, that waivers adopted after that date must be for specific types of discharges and must be renewed at a minimum of every five years, and that prior to renewing any waiver the Regional Board shall review the terms of the waiver at a public hearing and shall determine whether the discharge should instead be subject to general or individual WDRs.
5. On 26 March 1982, the Regional Board waived WDRs for 23 categories of discharges, including "food processing wastes spread on land" as set forth in Regional Board Resolution No. 82-036. The Regional Board acted as lead agency for this project under the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 et seq.), and determined that the adoption of Resolution No. 82- 036 would not cause a significant environmental impact and therefore, in accordance with CEQA, approved a Negative Declaration dated 23 December 1981.
6. As required by CWC Section 13269, Resolution No. 82-036 expired on 1 January 2003.
7. The activities subject to this Resolution result in the generation and disposal of waste, as defined in California Water Code section 13050. Such waste has been typically discharged to

land. As described in this Resolution, due to the nature of the waste, such discharges could affect the quality of waters of the state. Discharges of waste in compliance with the conditions of this Resolution pose a lower threat to waters of the state, but still could affect the quality of the waters of the state. Waste discharged to land may migrate to groundwater or runoff to surface water and affect the quality of the waters. Groundwater monitoring from wineries and other food processing facilities subject to individual waste discharge requirements have shown that groundwater has been degraded from the discharge of process wastewater to land. Solid waste separated from wastewater and applied to land often contains residual wastewater that could affect the quality of the waters of the state. In addition, solid waste discharged to land may create odors if not properly managed, and, therefore, create a condition of nuisance. The Regional Board has received complaints about nuisance conditions at food processing facilities, including wineries. Waste discharged to tanks may leak or spill from tanks and affect the quality of waters of the state. Waste hauled from tanks may not be properly disposed of and, therefore, could affect the quality of waters of the state. Since discharges of waste in the manner described in this Resolution could affect the quality of the waters of the state, persons who discharge waste are subject to California Water Code section 13260 and 13263.

8. The Regional Board has reviewed the “food processing wastes spread on land” waiver category of Resolution No. 82-036 and has determined that the discharge of liquid and solid waste from small food processing operations, when subject to the conditions described in this Resolution, should pose a low threat of nuisance or water quality degradation.
9. As used throughout this document, the term “small food processor” includes small wineries.
10. The strength of process wastewater discharged from small food processors and wineries varies depending upon the season and the particular operation being performed. Monitoring data submitted to the Regional Board shows that the process wastewater contains the following characteristics:

<u>Constituent</u>	<u>Units</u>	<u>Winery Concentration</u>	<u>Other Small Food Processors</u>
PH	pH units	2 – 11	5 - 9
Biochemical Oxygen Demand	mg/l	300 – 12,000	1 – 2,000
Total Dissolved Solids	mg/l	80 – 6,000	400 – 2,300
Nitrogen	mg/l	1 – 50	1 - 17

11. If the food processing wastewater is applied to sufficient cropland at reasonable hydraulic and nutrient loading rates, and subject to the conditions of this Resolution, then there should be little potential for water quality degradation. The nitrogen in the wastewater, as well as some of the salts, will be utilized by the crops. In a well-aerated soil, the pH will be buffered and the biochemical oxygen demand will be reduced through microbial activity. This is enhanced by warm weather conditions, which are typical of the food processing season in the Central Valley Region. Best management practices to control irrigation tailwater will protect surface water quality.

12. Food processing residuals and wastewater, if not properly managed, can cause nuisance odors and attract vectors. However, use of best management practices, such as applying wastewater and residuals at agronomic rates, discing in residuals, and minimizing the potential for standing water, will prevent nuisance conditions.
13. Water is in short supply in some areas within the Central Valley Region, and winemakers in those areas may practice water conservation measures, producing less wastewater per gallon of wine than the industry average. Due to concentration effects, this wastewater may be of higher strength than that described in Finding No. 10. In order to determine reasonable nutrient loading rates, a Discharger may be required to submit an analysis of key wastewater constituents as part of the Report of Waste Discharge
14. Some smaller commercial wineries have determined that, for the volume of waste they generate, it is more cost effective to store their wastewater in a holding tank and then transport the wastewater to an authorized disposal facility instead of complying with the regulations for the discharge of wastewater onto land. There is little potential for water quality degradation with this method of wastewater disposal, when subject to the conditions of this Resolution.
15. This Resolution does not regulate the discharge of water - to which no chemical cleaning agents have been added - that is used for the soaking and final sanitary cleaning of pre-cleaned or new wine barrels. This clean water may be disposed of in any environmentally sound manner, including vineyard or landscape irrigation or discharge to a County-regulated septic system leachfield (in compliance with all applicable County regulations).
16. Small food processors, especially wineries, may grow over time and increase the volume of wastewater produced, and therefore an annual monitoring report is necessary to confirm that the food processor continues to meet the conditions of this waiver.
17. A waiver of the requirement to issue WDRs for waste discharges that (a) will cause no or insignificant impairment of water quality and (b) pose little risk of creating nuisance conditions is not against the public interest as it reduces the cost of activities that produce innocuous or small amounts of waste, is protective of the environment, and allows Regional Board staff to direct resources to address waste discharges that have significant potential to degrade water quality or create nuisance.
18. This Resolution is consistent with State Water Resources Control Board (State Board) Resolution No. 68-16 (Statement of Policy with Respect to Maintaining High Quality of Waters in California) in that the waiver of WDRs imposes conditions to prevent impacts to water quality, does not allow the degradation of water quality, will not unreasonably affect beneficial uses of water, and will not result in water quality less than that prescribed in plans and policies.
19. The Regional Board adopted a Negative Declaration when it adopted Resolution No. 82-036, and therefore, consistent with Title 14, California Code of Regulations (CCR) Section 15162, is not required to prepare a subsequent environmental impact report or negative declaration in renewing a specific category of discharge included in Resolution No. 82-036. In addition, the

action to adopt this Resolution is exempt from CEQA pursuant to 14 CCR Section 15308 because it is an action taken by a regulatory agency to assure the protection of the environment, and the regulatory process involves procedures for protection of the environment. Finally, the action to adopt this Resolution is also exempt from CEQA pursuant to 14 CCR Section 15301 to the extent that it applies to existing food processors that constitute “existing facilities” as that term is used in Section 15301.

20. Federal regulations for stormwater discharges have been promulgated by the U.S. Environmental Protection Agency (40 CFR Parts 122, 123, and 124) and require that specific categories of facilities which discharge stormwater obtain an NPDES permit. Wineries, and most food processors, are covered as one of the specific categories. The State Board has adopted Order No. 97-03-DWQ (General Permit No. CAS000001 or subsequent Order) specifying waste discharge requirements for discharges of stormwater associated with industrial activities, and requiring submittal of a Notice of Intent by all affected industrial dischargers. To apply for coverage under this waiver, a Discharger must either show that it is already covered (or specifically excluded) under Order No. 97-03-DWQ or (a) include a Notice of Intent to apply for coverage under Order No. 97-03-DWQ or (b) include a Notice of Non Applicability or a No Exposure Certification.
21. Section 13267(b) of the CWC provides that: *“In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports”*.

The technical reports required by this Resolution and the attached “Monitoring and Reporting Program No. R5-2003-0106” are necessary to evaluate each Discharger’s compliance with this waiver. Each individual Discharger operates the facility that discharges the waste subject to this Resolution.

22. Based on written comment and the testimony received at the public hearing, and based on the above noted facts and findings, the Regional Board finds that the Small Food Processor Waiver is not against public interest, provided that the dischargers subject to the waiver:
  - (a) file with the Regional Board the required RWD and filing fee; and
  - (b) comply with the conditions for this waiver of WDRs; and

(c) comply with applicable State Board and Regional Board plans and policies.

23. Based on the above-noted facts and findings, the Regional Board determines that it is not necessary at this time to adopt individual or general WDRs for the discharges described in this Resolution because these types of discharges are of low threat and Regional Board resources should focus on higher threat discharges.
24. Pursuant to CWC Section 13263(g), discharge is a privilege, not a right, and adoption of this waiver, and the receipt of a formal notification of a waiver of WDRs from the Executive Officer, does not create a vested right to continue the discharge.
25. The information contained in the Staff Report, which is attached hereto and made part of this Resolution by reference, has been considered in making decisions related to this matter.
26. The dischargers and other interested parties and persons were notified of the intent to adopt a Resolution waiving WDRs for small food processors, and were provided an opportunity to submit written comments and for a public hearing.
27. A public hearing was held on 11 July 2003 in Sacramento, California, and to consider all testimony and evidence concerning this matter.

THEREFORE BE IT RESOLVED that in accordance with CWC Section 13269, the Regional Board adopts this Resolution entitled "Waiver of Waste Discharge Requirements for Small Food Processors, Including Wineries" (hereafter informally referred to as "Small Food Processor Waiver" or "waiver") and waives the requirement to obtain WDRs for those dischargers who comply with the terms and conditions described in this document and who receive a waiver notification signed by the Executive Officer.

#### **A. Applicability**

This Waiver shall only apply to small food processors that meet the conditions listed below. Coverage under this Waiver shall only be granted to Dischargers who meet the conditions, submit a complete Report of Waste Discharge, and receive a formal waiver notification signed by the Executive Officer.

1. If wastewater and solid waste is applied to land at reasonable agronomic loading rates for nutrients and reasonable hydraulic loading rates for water:
  - a. The Waiver applies to wineries that crush less than 80 tons of grapes per year or generate less than 100,000 gallons of wastewater per year.
  - b. The Waiver applies to other small food processors (e.g., fruit dehydrators, walnut hullers, seed and nut processors, olive oil processors, etc.) that generate less than 100,000 gallons of wastewater per year.

2. If (a) wastewater is stored in a tank on-site prior to being hauled off-site for disposal at a permitted facility and (b) solid waste is applied to land at agronomic rates:
  - a. The Waiver applies to wineries of any size.
  - b. The Waiver applies to other small food processors (e.g., fruit dehydrators, walnut hullers, seed and nut processors, olive oil processors, etc.) of any size.
3. If, because of land constraints, a small food processor applies some of its wastewater and solid waste to land (as described in A.1) and removes the remainder of its wastewater (as described in A.2), then the Waiver applies to any small food processor or winery that generates less than 100,000 gallons of wastewater per year.
4. Wastewater may not be placed or stored in any impoundment (i.e., pond).
5. Process wastewater may not be discharged to any septic tank/leachfield system.
6. Wastewater and solid waste storage/disposal methods must comply with the General Conditions listed in Section C of this Waiver.

**B. Report of Waste Discharge**

1. Small food processors that are in existence as of the date of adoption of this Resolution, and wish to be granted coverage under it, shall submit a Report of Waste Discharge (RWD) within **90 days** of adoption of this Resolution. New small food processors which have not begun operation as of the date of adoption of this Resolution shall submit the RWD at least **120 days** before the anticipated date of discharge.
2. To be considered for coverage under this Waiver, the Discharger shall submit a RWD consisting of the following items:
  - a. A completed Form 200 (*Application/Report of Waste Discharge*). This document may be downloaded from the Internet at <http://www.swrcb.ca.gov/sbforms/form200.pdf>.
  - b. A one-time filing fee for a threat and complexity of “3C” as described in Title 23, California Code of Regulations, Section 2200 (currently \$400, although subject to change). The fee shall be submitted in a check made payable to the *State Water Resources Control Board*.
  - c. If an existing winery, a copy of the most recent Alcohol and Tobacco Tax and Trade Bureau (TTB) *Report of Wine Premises Operations* (ATF F5120.17) clearly showing the tons of grapes crushed the previous year. If a new winery, the proposed tonnage of grapes to be crushed in the first year of operation.

- d. If a winery that crushed over 80 tons of grapes the previous year, then an estimation of the volume of wastewater produced per calendar year, and a detailed description of the type and location of a flow meter that has been installed to measure all process wastewater flows.
- e. If a small food processor or winery that proposes to dispose of wastewater as described in A.3 (above), then an estimation of the volume of wastewater produced per calendar year, and a detailed description of the type and location of a flow meter(s) that has been installed to measure all process wastewater flows. The flow meter(s) must be able to measure both the volume of wastewater discharged to land and the volume of wastewater hauled off-site.
- f. If other type of food processor, a description of the type of food processed, an estimated volume of wastewater generated the past processing season, a description of the chemicals used in processing and/or equipment cleaning that may be present in the wastewater, the length of the processing season, and a description of how wastewater flows will be measured in the future.
- g. A map, roughly to scale, showing the location of the facility, property boundaries, cropland, any domestic and/or irrigation wells within the property boundary, and any surface waterbodies within 1,000 feet of the property.
- h. A description of whether the facility contains any ion exchange units, water softeners, boilers, or any other similar system which could generate saline wastes. If so, then describe how those waste streams will be segregated from the processing wastewater and disposed of.
- i. Information showing how the Discharger has complied with State Board Order No. 97-03-DWQ (General Permit No. CAS000001 or subsequent Order) specifying waste discharge requirements for discharges of stormwater associated with industrial activities. The Discharger shall submit one of the following: information showing that coverage has already been obtained, information showing that the Discharger has been specifically excluded from the program, a Notice of Intent and filing fee for coverage under the Order, a Notice of Non Applicability, or a No Exposure Certification and filing fee. Additional information about this program may be obtained at [http://www.swrcb.ca.gov/rwqcb5/available\\_documents/index.html#StormWaterPermits](http://www.swrcb.ca.gov/rwqcb5/available_documents/index.html#StormWaterPermits).
- j. If wastewater will be collected in tanks and removed from the facility for disposal, then include a *Wastewater Disposal Operation and Maintenance Plan* describing the type and location of the tank(s), the person or entity which will transport the waste, and the name of the regulated facility which will accept the wastewater.

- k. If wastewater will be applied to land, then include a *Wastewater Disposal Operation and Maintenance Plan* describing the number of acres to which wastewater will be applied, the crop(s) grown, estimated nutrient loading rates (for TDS, BOD, and total nitrogen, in lbs/ac/yr), how process wastewater flows will be measured or estimated, how the wastewater will be applied evenly over the entire acreage, how wastewater will be kept out of surface waters, how nuisance odors will be prevented, how the wastewater will be stored so that it is not applied to land during periods of precipitation or when the ground is saturated, and how the wastewater will be applied at reasonable agronomic and hydraulic loading rates.
- l. If solid waste will be applied to land, then include a *Solids Disposal Operation and Maintenance Plan*. The Plan shall include information describing the waste type, annual tonnage, the location(s) where the waste will be stored, how the storage practices will protect groundwater and surface water quality, the disposal location(s), timing of application, method of spreading and/or tilling into the soil, annual application rate (in units of pounds/acre), and the best management practices that will be taken to prevent stormwater contamination by the solid wastes.
- m. If solid waste will be removed from the facility, then include a *Solids Disposal Operation and Maintenance Plan* that describes how the waste will be stored, how the storage practices will protect groundwater and surface water quality, the person or entity which will transport the waste, and the name of the facility which will accept the solid waste.
- n. If required by Regional Board staff, a chemical analysis of key wastewater constituents including at a minimum BOD, total nitrogen, pH, and TDS.

### **C. Specific Conditions**

All small food processors shall comply with the following general conditions, as well as any site-specific conditions listed in the Executive Officer's formal Waiver notification.

1. The discharge shall neither degrade the quality of waters of the state nor create or threaten to create a condition of pollution, contamination, or nuisance as defined by CWC Section 13050.
2. The discharge of waste classified as "hazardous" under Title 23, California Code of Regulations (CCR), Section 2521 or as "designated" under CWC Section 13173 is prohibited.
3. The discharge of waste to surface water or surface water drainage courses is prohibited.
4. The discharge shall not contain waste from ion exchange units or water softeners, boiler blowdown wastes, or other waste having potentially high levels of total dissolved solids.



5. Wastewater shall not be discharged to impoundments (ponds) or leachfields.
6. Objectionable odors due to the storage and/or disposal of small food processing waste shall not be perceivable beyond the limits of the property owned by the Discharger.
7. The Discharger shall allow Regional Board staff reasonable access onto the affected property for the purpose of performing inspections to determine compliance with the Waiver conditions.
8. The Discharger shall take all reasonable steps to reduce the salinity of the wastewater.
9. If wastewater is applied to land:
  - a. Wastewater shall not be applied to land 24 hours before a forecasted storm, during a storm, 24 hours after a storm, or when the ground is saturated.
  - b. Wastewater shall be applied to crops at hydraulic rates and at agronomic rates for nitrogen and salt uptake.
10. If wastewater is stored on-site and hauled off-site for disposal:
  - a. All liquid winery wastes must be contained in a holding tank in such a manner that the wastewater does not contact the ground.
  - b. Winery wastewater shall be removed from the holding tank before capacity is reached, and may be removed by either a licensed septic hauler or by the Discharger.
  - c. Winery wastewater shall be discharged to a permitted treatment facility or septage receiving station. The Discharger shall obtain a receipt for the transported waste from either the licensed septic hauler or the receiving facility.
11. If solid waste is applied to land:
  - a. The storage and disposal of solid waste shall follow the site-specific *Solids Disposal Operation and Maintenance Plan* that is a required part of the RWD.
  - b. Solid waste shall be dried (if desired) and stored in a location and manner such that any leachate is managed to prevent impacts to groundwater or surface water.
  - c. Solid waste drying and/or storage areas shall be designed, constructed, operated, and maintained to prevent the washout or inundation due to floods with a 100-year return frequency.

- d. Solids that are applied to land shall be managed in a manner such that no liquid in the material runs off the application area. No free liquids shall be included in livestock feed.
- e. The buffering capacity of the soil profile shall not be exceeded due to the disposal of solid waste on the land.
- f. Solid waste shall be applied to land at agronomic rates.
- g. Grape stems may be segregated from the rest of the solid waste and applied to the vineyard property, including dirt roads, for erosion control. However, the stems must be applied in a manner and at a rate so as to prevent runoff into surface waters during storm events.
- h. Any on-site composting shall comply with the composting regulations found in Title 14 CCR, Division 7, Chapter 3.1.

**D. General Conditions**

- 1. Each Discharger granted coverage under the Small Food Processor Waiver shall comply with Monitoring and Reporting Program No. R5-2003-0106, which is attached hereto and made a part of this Resolution, and with any revisions thereto as ordered by the Executive Officer.
- 2. The discharge of any waste not specifically regulated by this Waiver is prohibited unless the Discharger obtains WDRs, qualifies for coverage under another waiver, or obtains other permission from the Regional Board for the discharge of that waste.
- 3. If a Discharger receives coverage under this Waiver for one type of waste disposal method, but subsequently wishes to change disposal methods to another that is also allowed under this Waiver, then the Discharger must submit a new RWD and filing fee.
- 4. A copy of this Resolution and the formal waiver notification shall be kept at the facility for reference by operating personnel. Key operating and site management personnel must be familiar with the documents.
- 5. The RWD, monitoring reports, and any other information requested by the Regional Board shall be signed by a person described as follows, or a duly authorized representative of that person. For a corporation: by a principal executive officer of at least the level of senior vice-president. For a partnership or sole proprietorship: by a general partner or the proprietor. For a municipality or public agency: by either a principal executive officer or ranking elected or appointed official.
- 6. Any person signing a RWD, monitoring report, or other technical report makes the following certification, whether written or implied:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

7. All technical and monitoring reports submitted pursuant to this Waiver are required pursuant to CWC Section 13267. Failure to submit reports in accordance with schedules established by this Waiver, the attachments of this Waiver, or failure to submit a report of sufficient technical quality to be acceptable to the Executive Officer, may subject the Discharger to enforcement action pursuant to CWC Section 13268.
8. In the event of any change in control or ownership of land or waste discharge facilities presently owned or controlled by the Discharger, the Discharger shall notify the succeeding owner or operator of the existence of this Waiver by letter, a copy of which shall be immediately forwarded to the Executive Officer.
9. In the event that the Discharger does not comply, or will be unable to comply, with any conditions of this Waiver, the Discharger shall notify Regional Board staff by telephone as soon as it or its agents have knowledge of such noncompliance or potential for noncompliance and shall confirm this notification in writing within two weeks. The written notification shall state the nature, time, and cause of noncompliance, shall describe the measures being taken to prevent recurrences, and shall include a timeline for corrective actions.
10. The Discharger shall permit Regional Board representatives to (a) enter premises where wastes are stored or disposed of, (b) copy any records required to be kept under the terms of this Resolution, (c) inspect monitoring equipment required by this Resolution, and (d) sample, photograph, and video tape any discharge, waste, waste management unit, or monitoring device.
11. The Discharger shall comply with all federal, state, county, and local laws and regulations pertaining to the discharge.
12. It shall not be a defense for a discharger in an enforcement action that it would have been necessary to halt or reduce its activity in order to maintain compliance with conditions of this Waiver.
13. The Discharger must comply with all conditions of this Waiver, including timely submittal of all monitoring reports. Violations may result in enforcement action under the CWC, and could include Regional Board orders, the imposition of civil liability, cessation of coverage under this Waiver, or referral to the Attorney General.

14. A Discharger may be granted coverage under this Waiver and subsequently expand its operations or change its method of discharge such that it no longer meets the conditions of his Waiver. In that case, the Discharger shall submit a RWD for individual WDRs or an applicable General WDRs at least **120 days** before it no longer meets the conditions of this Waiver.
15. Except for material determined to be confidential in accordance with California law and regulations, all reports prepared in accordance with terms of this Waiver will be available for public inspection at the Regional Board offices. Data on waste discharges, water quality, geology, and hydrogeology will not be considered confidential.
16. A discharger who discharges any waste not specifically regulated by this Waiver may not discharge such waste except in compliance with the CWC.
17. As provided by CWC Section 13350(a), any person may be civilly liable if that person, in violation of a Waiver condition or WDRs, intentionally or negligently discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State and creates a condition of pollution or nuisance.
18. Pursuant to CWC Section 13269, this action waiving the issuance of WDRs for small food processors (a) is conditional, (b) may be terminated at any time, (c) does not permit an illegal activity, (d) does not preclude the need for permits which may be required by other local or governmental agencies, and (e) does not preclude the Regional Board from administering enforcement remedies (including civil liability) pursuant to the CWC.
19. The Executive Officer or Regional Board may terminate the applicability of the Small Food Processor Waiver described herein as to any individual discharger at any time when such termination is in the public interest or the activity could affect the quality or beneficial uses of the waters of the State.
20. This Small Food Processor Waiver shall become effective on 11 July 2003 and shall expire on 11 July 2008, unless terminated or renewed by the Regional Board prior to that time.
21. The Regional Board may review the Small Food Processor Waiver at any time and may modify or terminate the waiver in its entirety, as applicable for a specific type of food processing discharge, or for individual dischargers, as appropriate.

I, THOMAS R. PINKOS, Executive Officer, do hereby certify that the foregoing is a full, true, and correct copy of a Resolution adopted by the California Regional Water Quality Control Board, Central Valley Region, on 11 July 2003.

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THOMAS R. PINKOS, Executive Officer

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL VALLEY REGION

MONITORING AND REPORTING PROGRAM NO.

FOR RESOLUTION NO.  
A WAIVER OF WASTE DISCHARGE REQUIREMENTS  
FOR  
SMALL FOOD PROCESSORS, INCLUDING WINERIES,  
WITHIN THE CENTRAL VALLEY REGION

This Monitoring and Reporting Program (MRP) describes requirements for monitoring the wastewater discharges from small food processors who have been granted a formal waiver of waste discharge requirements pursuant to the Small Food Processor Waiver. This MRP is issued pursuant to Section 13267 of the California Water Code. The Discharger shall not implement any changes to this MRP unless and until a revised MRP is issued by the Executive Officer.

Each Discharger granted coverage under the Small Food Processor Waiver shall submit an annual monitoring report no later than **1 February** of each year. The report shall describe activities during the previous calendar year, and shall contain the following information:

1. A statement of whether wastewater was applied to land, whether wastewater was stored on-site and hauled off-site, whether solid waste was applied to land, and whether solid waste was disposed of off-site.
2. If wastewater was applied to land, then provide:
  - a. If a winery, a copy of the most recent Alcohol and Tobacco Tax and Trade Bureau (TTB) *Report of Wine Premises Operations* (ATF F5120.17) clearly showing the tons of grapes crushed.
  - b. If a winery, and more than 80 tons of grapes were crushed, a data table showing the monthly process wastewater flow measurements and the total gallons of wastewater produced during the calendar year.
  - c. If other type of food processor, provide the dates that processing occurred, and a data table showing the monthly process wastewater flow measurements and the total gallons of wastewater produced during the calendar year.
  - d. For all types of food processors: (1) the number of acres to which wastewater was applied, (2) the approximate dates of discharge, (3) the crop(s) grown, (4) a description of how wastewater was applied evenly over the entire acreage and how it was kept out of surface waters, (5) whether nuisance odors were prevented, and (6) how the wastewater was stored so that it was not applied to land during periods of precipitation or when the ground is saturated.

3. If wastewater was stored on-site and then taken off-site for disposal, provide:
  - a. Copies of receipts from the licensed septic hauler or disposal facility.
  - b. The results of a monthly inspection of the condition of the storage tank(s). The inspection shall focus on the potential for leakage from the tank(s).
4. If wastewater was both applied to land and hauled off-site for disposal, then provide:
  - a. The information required in Numbers 2a, 2c, 2d, 3a, and 3b (above).
  - b. A data table showing the total monthly process wastewater flow measurements, broken down by the monthly flows to land and monthly flows to the storage tank(s).
5. If solid waste was applied to land, provide:
  - a. An estimation of the amount of solid waste generated and where it was stored.
  - b. The amount of solid waste disposed of on-site and the amount of solid waste removed for disposal off-site.
  - c. The location of disposal, acreage, and cropping pattern.
6. If solid waste was taken off-site for disposal, provide copies of receipts from the licensed hauler or disposal facility.

A transmittal letter shall accompany each report. Such a letter shall include a discussion of any violations found during the reporting period, and actions taken or planned for correcting noted violations, such as operational or facility modifications. If the Discharger has previously submitted a report describing corrective actions and/or a time schedule for implementing the corrective actions, reference to the previous correspondence will be satisfactory. The transmittal letter shall contain the penalty of perjury statement by the Discharger, or the Discharger's authorized agent, as described in General Information Nos. D.5 and D.6 of the Small Food Processor Waiver.

The Discharger shall implement the above monitoring program as of the date of coverage under the Waiver.

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THOMAS R. PINKOS, Executive Officer

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Date

**Staff Report**  
**11 July 2003 Central Valley Regional Water Control Board Meeting**

Resolution Considering Approval of a  
Waiver of Waste Discharge Requirements for  
Small Food Processors, Including Wineries,  
Within the Central Valley Region

As directed by the Regional Board at its March 2003 meeting, staff has prepared a proposed "Waiver of Waste Discharge Requirements for Small Food Processors, Including Wineries". Those food processors who qualify for coverage under this waiver will discharge waste in a manner that constitutes a low or negligible threat to water quality.

**Applicability of the Waiver**

The waiver applies to small food processors and wineries who discharge wastewater and residual solid waste in one of three ways:

- If wastewater and solid waste is applied to cropland at reasonable agronomic and hydraulic loading rates, then the following facilities may be covered: (a) wineries that crush less than 80 tons of grapes per year, (b) wineries that crush over 80 tons of grapes but generate less than 100,000 gallons of wastewater per year and meter their flows; (c) other small food processors that generate less than 100,000 gallons of wastewater per year and meter their flows.
- If (a) wastewater is stored in a tank on-site prior to being hauled off-site for disposal at a permitted facility and (b) solid waste is applied to land at agronomic rates, then the waiver applies to any size winery or food processor.
- If, because of land constraints, a small food processor or winery applies some of its wastewater and solid waste to land at reasonable agronomic and hydraulic loading rates, and removes the remainder of its wastewater through tanking and hauling to a permitted facility, then the waiver applies to any small food processor or winery that generates less than 100,000 gallons of wastewater per year and meters its flows.

**Major Components of the Waiver**

To receive coverage, a Discharger would submit a short Report of Waste Discharge (RWD) and a one-time filing fee (currently \$400, corresponding to the lowest threat and complexity rating). Upon receiving written notification of coverage by the Executive Officer, the Discharger would be required to comply with the specifications and provisions of the waiver, and to submit a simple monitoring report once per year. The waiver is designed such that a Discharger should be able to complete both the RWD and monitoring reports without needing to obtain the services of a California Registered Engineer or Geologist.

The California Water Code states that a Regional Board must review waivers at least once every five years. This waiver would be in effect for the entire five year period, after which time the Regional Board would review available information, including the annual monitoring reports, to determine whether the waiver should be renewed as is, renewed with modifications, or not renewed.

### **Public Input**

On 25 March 2003, staff sent a letter to over 400 industry groups, individuals, and interested persons, advising them that a waiver of waste discharge requirements was under preparation and soliciting input on certain items, including the winery size to which the waiver should apply, waste disposal methods which are protective of water quality, and the submittal of a RWD, filing fee, and annual reports. Seven responses were received. Two individuals stated that wastewater from 5,000-6,000 cases of wine per year could be discharged to septic tanks without any adverse impacts. However, this analysis was made based on flow only, not the strength of the waste or depth to groundwater. Three individuals advocated the discharge of wastewater to land as a method to protect water quality, one individual asked that staff follow the direction of the Central Coast Regional Board, and one individual believes that very small wineries produce a low strength waste.

On 9 May 2003, the draft waiver was sent to the same 400+ person mailing list. Interested persons were provided with a 30 day public comment period, 20 days longer than required by the California Water Code. Staff received 14 comment letters. This staff report describes the changes that were made to the waiver in response to the comments, and the remaining issues. On 24 June 2003, the agenda package, containing the draft revised waiver, will be sent to the entire mailing list. As described in the Notice of Public Hearing, additional written comments will be considered if submitted prior to 8:30 a.m. on 7 July 2003. Any interested person may also provide comments directly to the Regional Board during the hearing to consider adoption of this waiver on 11 July 2003.

### **Rationale for Specific Components of the Waiver**

#### *Size Limitation for Wineries Applying Wastewater to Land*

Staff has carefully considered the size limitation for wineries presented in this Order. Staff have determined that it is not appropriate to use the 1,500 case (approximately 20 tons grapes crushed) limit developed by San Joaquin County to define “boutique” wineries, as the regulations surrounding this limit apply to issues unrelated to wastewater discharge.

Staff has reviewed the Central Coast Regional Board’s General WDRs for discharges of winery waste, adopted in November 2002. This General Order specifies that a “small” winery may receive a waiver of WDRs if (a) they crush less than 80 tons of grapes or produce less than 5,000 cases of wine annually, (b) provide proof that depth to groundwater at the disposal area is greater than 100 feet (for septic tank/leachfield disposal of waste), (c) provide proof that depth to groundwater is greater than 20 feet if wastewater is incorporated into the vineyard irrigation water and applied at agronomic rates, (d) provide written certification of the intent to comply with the General WDRs, and (e) receive a written notice from the Executive Officer that WDRs have been waived.

While Central Valley staff would prefer prescribing a winery size limitation based on the actual annual volume of wastewater produced, we understand that this would require that winery owners install flow meters and periodically record the results. While that is an appropriate cost for the larger facilities covered by WDRs, it may not be necessary for the smallest facilities. Therefore, staff considered a size limitation based on either cases of wine produced or tons of grapes crushed. Neither approach is ideal, as some wineries crush their grapes and then sell bulk wine to other facilities. A limit based on cases of wine produced would not account for the excess wastewater



generated during crush by the facilities that sell bulk wine, and a limit based on tons crushed does not account for the wastewater generated from handling the bulk wine. Nevertheless, staff believe that a limit based on tons crushed is fairly accurate, and a value which winemakers are already required to report to the federal Alcohol and Tobacco Tax and Trade Bureau.

Staff proposes that the waiver contain a size limitation of 80 tons of grapes crushed per year. This is consistent with the Central Coast Regional Board, and corresponds to approximately 5,000 – 6,400 cases of wine (depending on the variety and quality of grape and the winemaker's preferences) and to approximately 27,000 to 121,000 gallons of wastewater (assuming between 2 and 8 gallons of wastewater per gallon of wine produced).

Several comments have been received stating that winemakers that crush greater than 80 tons of grapes should also be allowed coverage under the waiver, as long as they produce less than 100,000 gallons of wastewater per year (the same limitation as for other small food processors, as described below). Staff understand that water is in short supply in some areas of the Sierra Foothills, and those winemakers therefore produce less wastewater than the industry average. In order to provide parity with the other small food processors, the waiver has been revised to apply to wineries that crush more than 80 tons of grapes but produce less than 100,000 gallons of wastewater. However, these wineries will be required to meter their wastewater flows, just as other small food processors must meter their flows. Staff recognize that winery process wastewater flows do not include the water - to which no chemical cleaning agents have been added - that is used for the soaking and final sanitary cleaning of pre-cleaned or new wine barrels.

#### *Size Limitation for Other Small Food Processors Applying Wastewater to Land*

This waiver is intended to apply to other small food processors in addition to wineries. These food processors typically have a limited season (for example, prune dehydrators or walnut hullers) and have a wastewater strength comparable to winery wastewater. Because of the variety of food processors which may apply for coverage under this waiver, it is not appropriate to list the volume of product processed to determine the size limitation for coverage. Instead, it is more appropriate to describe a wastewater flow limitation. In order to be consistent with the wineries, and because the wastewater strength is similar, this waiver will apply to food processors with a wastewater flow of less than 100,000 gallons per year. Individual dischargers will be required to meter their wastewater flow to determine compliance. In some cases, it may not be necessary to install flow meters; instead it may be appropriate to record run times from existing pumps (either on water supply wells or on discharge pumps).

#### *Size Limitation for Small Food Processors that Tank/Haul their Wastewater*

Some smaller commercial wineries have determined that, for the volume of waste they generate, it is more cost effective to store their wastewater in a holding tank and then transport the wastewater to an authorized disposal facility instead of complying with the regulations for the discharge of wastewater onto land. It is emphasized that the Regional Board is not requiring any small food processor to utilize this method of waste disposal; this disposal method was proposed by some of the smaller foothill wineries, and the use is a personal choice based on economics and permit compliance issues. The 9 May 2003 version of the draft waiver stated that wineries which tank/haul their wastewater, and crush less than 80 tons of grapes per year, would be eligible for coverage. Since that time, staff talked with industry representatives and realized that very few, if any, wineries

that crush over 80 tons of grapes would choose to haul off their wastewater. As stated above, crushing 80 tons of grapes produces approximately 100,000 gallons of wastewater. The average hauling/disposal rate charged by septic haulers is 25-30 cents/gallon of wastewater, leading to an annual cost of \$25,000 to \$30,000 to dispose of wastewater from a winery crushing 80 tons of grapes/year. If a winery has available land, it would probably be more cost effective to install an irrigation system to dispose of the wastewater at reasonable agronomic and hydraulic loading rates, than to tank/haul the wastewater.

Based on this understanding, the waiver has been revised to state that it applies to any winery or small food processor, regardless of size, that chooses to tank/haul its wastewater. In addition, staff are recommending that the Regional Board consider rescinding General Order No.R5-2003-0029, the *General Waste Discharge Requirements for the On-Site Storage and Off-Site Disposal of Wastewater Generated by Commercial Wineries Within the Central Valley Region*. The net result of this action is that any small food processor that tanks/hauls its wastewater will be covered by a waiver, the Discharger will only pay a one-time filing fee instead of an annual fee, and will only submit an annual monitoring report instead of semi-annual monitoring reports. The waiver has been revised to include all applicable Discharge Specifications from General Order No. R5-2003-0029. Therefore, the waiver will protect water quality to the same degree as the General Order.

#### *Wastewater Disposal Methods*

This waiver is only applicable to those discharges of waste which have little potential to create nuisance conditions (odors, mosquitoes, flies, etc.) and have little potential to impact water quality. There are four main constituents in winery and other food processing wastewater that may impact water quality. As shown in the table below, the strength of winery waste is variable, depending on the season and the particular operation being performed. Monitoring data submitted to the Regional Board shows that these concentration ranges are fairly constant, regardless of the size of the winery. The peak wastewater strength and volume is generally during the grape crushing season, which takes place from about August to October. Other operations such as cleaning equipment and tanks can generate high strength waste streams. It also should be noted that many small wineries have reduced their water use, and therefore they generate higher strength wastewater (i.e., through less dilution). The wastewater strength from other food processors is also presented in the table. This data is from Reports of Waste Discharge and monitoring reports submitted by food processors currently regulated by the Board, and includes wastewater from fresh fruit packers (apple, cherry, apricot), prune dehydrators, seed producers, and a producer of soy/rice products.

<u>Constituent</u>	<u>Units</u>	Winery	Other Small	Domestic	Groundwater
		<u>Concentration</u>	<u>Food Processors</u>	<u>Sewage Concentration</u>	<u>Criteria</u>
PH	pH units	2 - 11	5 - 9	6 - 8	6.5 – 8.5
BOD	mg/l	300 – 12,000	1 – 2,000	100 - 400	None
TDS (salts)	mg/l	80 – 6,000	400 – 2,300	150 – 1,000	450
Nitrogen	mg/l	1 - 50	1 - 17	20 - 50	10

The application of wastewater to cropland at reasonable hydraulic and agronomic loading rates is a long-standing practice that is typically protective of the underlying groundwater. The nitrogen in the wastewater, as well as some of the salts, will be utilized by the crops. In a well-aerated soil, the

pH will be buffered and the biochemical oxygen demand will be reduced through microbial activity. This is enhanced by warm weather conditions, which are typical of the food processing season in the Central Valley Region. This waiver applies to those dischargers who dispose of wastewater in this manner. The individual discharger will need to show, through the Report of Waste Discharge, that the particular site contains sufficient land to assimilate the waste. Some example calculations follow:

A winery crushing 80 tons of grapes will generate between 27,000 and 121,000 gallons of wastewater. Using conservative values, the winery will generate 100,000 gallons of wastewater on an annual basis, containing 50 mg/l of total nitrogen, 12,000 mg/l of biochemical oxygen demand (BOD), and 6,000 mg/l of total dissolved solids (TDS). These values equate to 41 pounds of nitrogen, 10,000 lbs of BOD, and 5,000 lbs of TDS. This waste needs to be spread over sufficient cropland to take up the waste. On a hydraulic loading basis, 100,000 gallons of wastewater equates to approximately 4" of wastewater spread over an acre within a year's time. This is acceptable from a hydraulic and nitrogen loading basis, but would result in an over application of BOD and TDS. Therefore, additional acreage would be required. Individual WDRs for food processing wastewater discharges typically restrict BOD loading rates to no more than 300 lbs BOD/ac for a single day (to prevent nuisance/odor conditions) and an average of 100 lbs BOD/ac over the entire processing season (to prevent water quality degradation). Plants can uptake approximately 2,000 lbs of salt/acre/year. Some of this salt load is provided in the irrigation water and in fertilizer. In the above case, a winery producing 100,000 gallons of wastewater would need to spread the waste evenly over at least 5-6 acres of land (depending on the salt content of the irrigation water, amount of fertilization, the BOD strength of the wastewater during crush, and whether wastewater will be applied to the entire acreage).

Each individual discharger will need to describe and/or provide calculations showing the nutrient loading rates, how they plan on applying the wastewater, whether any dilution will take place through the application of irrigation water, how many acres would be necessary to prevent groundwater degradation, how they will ensure that the wastewater is evenly spread over the land, and how they will ensure that the wastewater does not run off into surface waters.

The El Dorado Winery Association states that it is developing a "wastewater management model" based on soil characteristics, geology, hydrogeology, and topography. Staff anticipate that wineries that utilize this model could apply for coverage under this waiver, if they meet the size limitations. The model, applied to the specific winery, would supply the information necessary for the Report of Waste Discharge.

#### *Specific Prohibitions*

This waiver does not allow the discharge of wastes from ion exchange units, water softeners, boilers, or any other operation with a potential to create waste containing high concentrations of total dissolved solids. Waste from small food processors contains high concentrations of total dissolved solids, and crops will only uptake a limited amount of salts. In order to protect underlying groundwater, these specific high-strength wastes must be disposed of in a separate manner.

Industries that use brining, curing, or caustic solutions in the processing are specifically exempt

from coverage under this waiver. Animal slaughterhouses and/or meat processing facilities cannot be covered by this waiver.

The waiver does not allow wastewater to be placed in impoundments (any sort of pond), whether for treatment, temporary storage, or long-term storage. The placement of concentrated waste in a pond has the potential to impact water quality, and in fact, has already impacted water quality at some wineries and food processors. The use of treatment or storage ponds will be regulated under either individual WDRs or a possible future General Order for land discharge.

The waiver states that wastewater must not be applied to land 24 hours before a predicted storm, during a storm, 24 hours after the storm ceases, or when the ground is saturated. This is a standard specification in land discharge permits, and is necessary to ensure that wastewater will not co-mingle with stormwater. In order to implement this specification, it is expected that the dischargers granted coverage under this waiver will either modify their operations so that they are not producing wastewater during storm events, or will have some method (such as an above ground or underground tank) to allow the wastewater to be stored during storm events.

#### *Report of Waste Discharge*

A Report of Waste Discharge (RWD) is necessary to describe an individual food processor's operation and to show that waste is (or will be) discharged in a manner that complies with the waiver. The waiver describes the items that are to be included in the RWD. The RWD is simple enough that an individual discharger should be able to complete it directly; there should be no need to hire a consultant. It should also be noted that the Board usually requires the items of a RWD pertaining to wastewater treatment, storage, and disposal be prepared under the direction of a California Registered Engineer or Geologist. However, that is not required in this case. The RWD is to include a one-time filing fee that corresponds to the lowest threat and complexity site, as described in Title 23, California Code of Regulations, Section 2200. That filing fee is currently \$400, and is necessary to cover staff's time to review the RWD, prepare the coverage letter, review the annual monitoring reports, and complete other administrative tasks.

#### *Annual Report*

An annual report is necessary for several reasons. First, the Board will need to review the waiver within five years, and will need to have data to show a history of compliance. Also, it is anticipated that many small food processors, especially wineries, will grow over time. An annual report is necessary to show that the discharger continues to meet the conditions of waiver, including the size and/or flow limitations. If a discharger exceeds the limits within this waiver, then it will be required to apply for individual WDRs or a General Order, as applicable.

### **Outstanding Issues**

#### *Septic Tank/Leachfield Discharges*

Staff realize that a number of small wineries currently discharge their wastewater to septic tanks and leachfields. While we concur that the volume of wastewater generated by crushing 70-80 tons of grapes is comparable to the volume generated by a large household (although a winery generates much larger volumes during crush), the *strength* of the winery wastewater is substantially stronger (as shown in the above table). Staff do not believe that soil beneath a subsurface leachfield is able

to treat the high BOD, salt, and nitrogen concentrations in winery wastewater to levels that will not degrade the underlying groundwater. Despite a request for input in the 25 March 2003 letter to the winery mailing list, the industry has not provided any rationale as to how this could happen either. Without sufficient treatment in the soil beneath a leachfield, untreated waste will migrate into the groundwater and cause degradation.

Staff has reviewed available literature to see if septic tanks/leachfields are recommended as a method for the treatment and/or disposal for food processing wastewater. Neither the US EPA<sup>1</sup> nor the California League of Food Processors<sup>2</sup> recommends this type of system. A septic tank performs in essentially the same way as a sedimentation pond, and can reduce the BOD concentration significantly in wastewaters high in settleable solids. However, sedimentation systems alone are ineffective in treating wastewater primarily composed of dissolved BOD, such as winery wastewater<sup>3</sup>. Additionally, unless such systems are specifically sized and designed to allow adequate solids settling during peak or slug flows, effluent quality will be variable<sup>1,2</sup>. In any case, dissolved solids (TDS) will not be removed by a septic tank.

The Central Coast Regional Board's General Order allows a waiver for wineries using leachfields for disposal as long the discharger can "provide proof" that the depth to groundwater at the disposal area is greater than 100 feet. The Regional Board typically requires that such proof be provided in a report prepared and stamped by a California Registered Engineer or Geologist. The professional would review such items as well logs, sources of springs, depth to bedrock, the potential for perched groundwater, and the potential for fractured flow, and provide an opinion based on their professional expertise. The need to provide data stamped by a registered professional is a standard requirement for other dischargers, and would therefore be expected from wineries documenting the depth to groundwater. Many small wineries in the foothill counties are in areas with shallow soils and fractured bedrock. It seems unrealistic that many, if any, sites could provide proof that there is at least 100 feet to first groundwater beneath their leachfield. It should also be pointed out that this waiver is intended to be a simple tool for both the discharger and staff. The minimal one-time filing fee provided with the RWD does not permit staff to review in-depth analyses of groundwater conditions. That review is more appropriate in the development of site-specific WDRs.

Staff of the Central Valley Regional Board have discussed the discharge of winery wastewater with staff from the Central Coast and North Coast Regional Boards. Neither of these Regional Boards has required a winery with a septic tank/leachfield disposal system install groundwater monitoring wells to determine whether this disposal method is degrading groundwater. It appears that the Central Valley Regional Board has required the most groundwater monitoring at wineries (although

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<sup>1</sup> USEPA 1977. Pollution Abatement in the Fruit and Vegetable Industry, Basics of Pollution Control/Case Histories (EPA-625/3-77-0007-V.1).

<sup>2</sup> Brown and Caldwell, et al., 2002. Manual of Good Practice, Land application of Food Process/Rinse Water, California League of Food Processors, Sections 8.1.3 and 8.2.

<sup>3</sup> Storm, David R., 2001. Winery Utilities Plan, Design, and Operation, Aspen Publisher, Inc., Gaithersburg, MD, pp 201-204 and 227-235.

not a wineries with septic tank/leachfields) and has found groundwater degradation beneath a significant number of wineries, even when waste is being discharged in conformance with individual WDRs. Per the California Water Code, waivers are only appropriate when shown to be not against the public interest. It is not in the public's interest to allow groundwater degradation. Therefore, it is not appropriate to allow the discharge of winery process wastewater (or the process wastewater from any small food processor) to septic tanks/leachfields due to the strength of the wastewater, the lack of treatment in the soil beneath a leachfield, and the lack of any proof that such a discharge is protective of groundwater. It is noted that the discharge of process wastewater to septic tanks/leachfields is to systems that have never been permitted by the Regional Board, and that the Board cannot legally allow the use to continue unless the Discharger complies with State Board Resolution No. 68-16 (the "Anti-degradation Policy") and other Basin Plan requirements. No winery owners have attempted to establish that the discharge is consistent with Resolution No. 68-16, and if one did, a waiver is not an appropriate vehicle for allowing degradation under that policy. Those individuals that currently discharge to leachfields will either need to change the waste disposal system to comply with the waiver, or will need to apply for coverage under individual WDRs or for the possible future land disposal General WDRs.

#### *Delay Consideration of this Waiver*

The Wine Institute has submitted comments stating that it is conducting an on-going study on the discharge of wastewater to land and that its recent Code of Sustainable Winegrowing Practices "addresses the best management practices necessary to ensure the protection of waters of the state." The Wine Institute asks that the Board postpone consideration of the waiver "until additional science can be provided justifying the waiver based on agronomic rates".

The Wine Institute's ongoing land disposal study currently concerns the discharge of process wastewater and stillage to disposal (non-cropped) basins. Staff have reviewed the initial results from the three month study, and are concerned about the movement of a number of constituents through the vadose zone and potentially into groundwater. Staff believe that this study has no bearing on this waiver because the waiver is only concerned with two specific disposal practices: application of wastewater at reasonable agronomic and hydraulic loading rates onto cropped land, and the tanking/hauling of wastewater. Staff have also reviewed the Code of Sustainable Practices, commend the industry on its proactive stance. The "Winery Water Conservation and Quality" Chapter emphasizes water conservation practices. The chapter does not cover salinity reduction practices or disposal methods that are protective of water quality. Staff believe that the Code of Sustainable Practices has no bearing on consideration of this waiver.

Several comments have been received regarding the need for this waiver. The waiver is seen as an economic, expedient method for permitting new wineries. A start-up winery has many different permitting and business decisions, and many small wineries have stated that they will tank/haul their wastewater in the first few years. This allows them to direct their resources to the myriad of other issues needed to begin operation, and allows them to easily dispose of their wastewater in the short-term. As they grow, they can later explore other options for wastewater disposal. The waiver will allow staff to easily permit these new wineries, and in turn, allow the Counties to issue building permits to these new businesses.

**Recommendation**

Staff recommend that the Board adopt the proposed Waiver for Small Food Processors. This waiver is necessary at this time to regulate many of the small food processors within the region, and the many new wineries which are starting up within the region. A number of entities have submitted comments agreeing with the premise of the waiver, including the annual monitoring report and one-time filing fee. The waiver has been revised to include a number of recommendations by the industry. Staff recognize that the industry is investigating the water quality impacts of food processing wastes discharged to land, and respond that once new data is developed, the Board may wish to consider revising this waiver or may wish to regulate the industry in a different manner.

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